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RECENT DECISIONS

JULIAN D. ROSENBERG, *Editor-in-Charge*
LIONEL S. POPKIN, *Associate Editor*

ASSESSMENTS—PIPE LINES—REAL OR PERSONAL PROPERTY.—The legislature provided that pipe lines and other improvements on real estate that would be benefited by the improving of the roads should be assessed. In a suit by the plaintiff gas company to restrain the defendant commissioners from levying an assessment on the plaintiff's pipe lines, *held*, such pipe lines were not subject to assessment, for they were clearly personal property and could not be otherwise classified by the legislature. *Arkansas Natural Gas Co. v. Commissioners of Hope, etc. Dist.* (Ark. 1920) 218 S. W. 664.

The theory underlying special assessments for local improvements is benefit to the property assessed. See *Excelsior Co. v. Green* (1887) 39 La. Ann. 455, 462, 1 So. 873. As personal property ordinarily derives no benefit from a local improvement, *i. e.*, its market value is not enhanced thereby, some courts have laid down the broad general rule that personal property cannot be assessed. *Snetzer v. Gregg* (1917) 129 Ark. 542, 196 S. W. 925. Other courts take the more logical view that personal property can be assessed if benefited. *Excelsior Co. v. Green, supra*. It is difficult to conceive of pipe lines being benefited by a road improvement. And so it seems the instant case could have been put upon that ground without deciding that pipe lines were personalty. But since the court so decided, it is interesting to note that the weight of authority, both in the interpretation of statutes and independently thereof, holds that pipe lines are realty for the purposes of taxation. *Consolidated Gas Co. v. City of Baltimore* (1905) 101 Md. 541, 61 Atl. 532; *Paris v. Norway Water Co.* (1893) 85 Me. 330, 27 Atl. 143; *contra, Shelbyville Water Co. v. People* (1892) 140 Ill. 545, 30 N. E. 678. The reasons advanced by the Maine case are that pipes are attached permanently, and are used in connection with the soil that supports and sustains them. The Maryland case proceeded upon the theory that actual occupation of the soil by the pipes constitutes a taxable easement,—reasoning directly *contra* to that of the instant case. In the light of these decisions, and particularly in view of the power over the subjects of taxation usually conceded to legislatures, see *Citizens' Tel. Co. v. Fuller* (1913) 229 U. S. 322, 331, 33 Sup. Ct. 833, the conclusion of the instant case, that pipe lines are so clearly personal property that they cannot be classified as real property by a legislature, seems insupportable.

ATTORNEY'S LIEN—DECREE APPOINTING ADMINISTRATOR—NEW YORK.—Some of the next of kin of the deceased retained an attorney to secure letters of administration *c. t. a.*, and delivered life insurance policies and bank books to him. In an action of discovery brought against him, the attorney asserts a lien on the property entrusted to him for the services rendered in obtaining the decree appointing an administrator. *Held*, he has no lien. *In re Dawson's Estate* (1920) 180 N. Y. Supp. 271.

The common law recognized two kinds of attorney's liens. An attorney had a general retaining lien on all property which came into his hands in the regular course of business. This lien depended upon